U.S. Army Corps of Engineers DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2001-00474 PROJECT LOCATION INFORMATION: State: New York Saratoga County: Center coordinates of site (latitude/longitude): lat:42-54-0.5040 lon:73-55-37.3080 Approximate size of area (pareel) reviewed, including uplands: 17 aeres Name of nearest waterway: Unnamed Tributary to Dwaas Kill Name of watershed: HUDSON RIVER - NORTH OF TROY JURISDICTIONAL DETERMINATION Completed: Desktop determination [X]Date: July 25, 2005 Site visit(s) [] Date(s): Jurisdictional Determination (JD): [X] Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. [ ] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,

- sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which arc or could be used by interstate or foreign travelers for recreational or other purposes.
  - [ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The wetlands on the additional areas reviewed on this site are contiguous with, and adajcent to an unnamed tributary to the Dwaas Kill, which is a tributary to the Hudson River, a navigable waterway.

Lateral Extent of Jurisdiction: (Reference: 33 CFR	parts 328 and 329)
[ ] Ordinary High Water Mark indicated by:	[] High Tide Line indicated by:
[ ] clear, natural line impressed on the bank	[] oil or scum line along shore objects
[] the presence of litter and debris	[ ] fine shell or debris deposits (foreshore)
[] changes in the character of soil	[] physical markings/characteristics
[ ] destruction of terrestrial vegetation	[] tidal gages
[] shelving	[ ] other:
[] other:	
[] Mean High Water Mark indicated by:	
	gs; [] vegetation lines/changes in vegetation types.
[X] Wetland boundaries, as shown on the attached wet North Country Ecological Services, Inc.	cland delineation map and/or in a delineation report prepared by:
Basis For Not Asserting Jurisdiction:	
[] The reviewed area consists entirely of uplands.	
[ ] Unable to confirm the presence of waters in 33 CF.	R part 328(a)(1, 2, or 4-7).
[ ] Headquarters declined to approve jurisdiction on th	e basis of 33 CFR part 328.3(a)(3).
[] The Corps has made a case-specific determination the United States:	that the following waters present on the site are not Waters of
[ ] Waste treatment systems, including treatment po	onds or lagoons, pursuant to 33 CFR part 328.3.
[ ] Artificially irrigated areas, which would revert t	
[] Artificial lakes and ponds created by excavating	
retain water and which are used exclusively for rice growing.	such purposes as stock watering, irrigation, settling basins, or
[ ] Artificial reflecting or swimming pools or other	small ornamental bodies of water created
by excavating and/or diking dry land to retain w	
	idental to construction activity and pits excavated in dry land for
the purpose of obtaining fill, sand, or gravel unl abandoned and the resulting body of water meet	less and until the construction or excavation operation is its the definition of waters of the United States found at 33 CFR
328.3(a).	protota commoras
[ ] Isolated, intrastate wetland with no nexus to inte	Natural Resources Conservation Service. Explain rationale:
[] Non-tidal drainage or irrigation ditches excavate	
[ ] Other (explain):	ed on dry land. Explain fationale.
DATA REVIEWED FOR JURISDICTIONAL DETERMINAT	FION (mark all that apply):
[X] Maps, plans, plots or plat submitted by or on beha	
[X] Data sheets prepared/submitted by or on behalf of	
[X] This office concurs with the delineation report,	
North Country Ecological Services, Inc.	
[ ] This office does not concur with the delineation	report, dated , prepared by (company):
[] Data sheets prepared by the Corps.	
[] Corps' navigable waters' studies:	
[ J U.S. Geological Survey Hydrologic Atlas:	
[X] U.S. Geological Survey 7.5 Minute Topographic m	naps: Round Lake, NY
[ ] U.S. Geological Survey 7.5 Minute Historic quadrat	ngles:
[ ] U.S. Geological Survey 15 Minute Historic quadran	
[X] USDA Natural Resources Conservation Service So	il Survey: Saratoga County, NY
[] National wetlands inventory maps:	
[X] State/Local wetland inventory maps: NYSDEC Art [] FEMA/FIRM maps (Map Name & Date):	cicle 24 Wetlands Maps, Round Lake, NY and Mechanicville, NY
[] 100-year Floodplain Elevation is: (NGVD)	
[] Aerial Photographs (Name & Date):	
[X] Other photographs (Date): Representative photos fr	om report dated March 9, 2004
[] Advanced Identification Wetland maps:	,
[] Site visit/determination conducted on:	
[] Applicable/supporting case law:	
[] Other information (please specify):	

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2003-00266 PROJECT LOCATION INFORMATION: New York Dutchess County: Center coordinates of site (latitude/longitude): lat:41-33-55.0080 lon:73-48-24.0120 Approximate size of area (pareel) reviewed, including uplands: 110.906 acres. Name of nearest waterway: Unnamed Tributary to Fishkill Creek Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE JURISDICTIONAL DETERMINATION Completed: Desktop determination Date: [] Site visit(s) Date(s): November 18, 2004 [X]Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 31.83 acres. [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may he susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [] (1) The presence of waters, which are eurrently used, or were used in the past, or may be susceptible to use in

- interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- [ ] (2) The presence of interstate waters including interstate wetlands.
- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(I) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include perennial stream which is an unnamed tributary to Fishkill Creek, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR	parts 328 and 329)
[X] Ordinary High Water Mark indicated by:	[] High Tide Line indicated by:
[X] clear, natural line impressed on the bank	[] oil or scum line along shore objects
[X] the presence of litter and debris	[] fine shell or debris deposits (foreshore)
[X] changes in the character of soil	[] physical markings/characteristics
[X] destruction of terrestrial vegetation	[] tidal gages
[] shelving	[] other:
[] other:	
[] Mean High Water Mark indicated by:	
	gs; [] vegetation lines/changes in vegetation types.
[X] Wetland boundaries, as shown on the attached we	tland delineation map and/or in a delineation report prepared by:
Basis For Not Asserting Jurisdiction:	
[ ] The reviewed area consists entirely of uplands.	
[ ] Unable to confirm the presence of waters in 33 CF	R part 328(a)(1, 2, or 4-7).
[ ] Headquarters declined to approve jurisdiction on the	ne basis of 33 CFR part 328.3(a)(3).
	that the following waters present on the site are not Waters of
the United States:	<b>6</b>
[ ] Waste treatment systems, including treatment po	onds or lagoons, pursuant to 33 CFR part 328.3.
[ ] Artificially irrigated areas, which would revert	to upland if the irrigation ceased.
[ ] Artificial lakes and ponds created by excavating	
	such purposes as stock watering, irrigation, settling basins, or
rice growing.	
[] Artificial reflecting or swimming pools or other	small ornamental bodies of water created
by excavating and/or diking dry land to retain v	
	idental to construction activity and pits excavated in dry land for
	less and until the construction or excavation operation is
	ts the definition of waters of the United States found at 33 CFR
[ ] Isolated, intrastate wetland with no nexus to inte	erstate commerce
	Natural Resources Conservation Service. Explain rationale:
[] Non-tidal drainage or irrigation ditches excavate	
[] Other (explain):	a on dry tund. Explain rationale.
[] Sine (explain).	
DATA REVIEWED FOR JURISDICTIONAL DETERM	
[X] Maps, plans, plots or plat submitted by or on beha	
[X] Data sheets prepared/submitted by or on behalf of	
[] This office concurs with the delineation report,	
[] This office does not concur with the delineation	report, dated , prepared by (eompany):
[ ] Data sheets prepared by the Corps.	
[ ] Corps' navigable waters' studies:	
[ ] U.S. Geologieal Survey Hydrologic Atlas:	
[X] U.S. Geological Survey 7.5 Minute Topographic n	
[ ] U.S. Geological Survey 7.5 Minute Historic quadra	
[ J U.S. Geological Survey 15 Minute Historic quadrar	
[ ] USDA Natural Resources Conservation Service Soi	
[X] National wetlands inventory maps: Hopewell Junct	
[X] State/Local wetland inventory maps: Hopewell Jun	iction, NY
[] FEMA/FIRM maps (Map Name & Date):	
[] 100-year Floodplain Elevation is: (NGVD)	
[ ] Aerial Photographs (Name & Date):	
[X] Other photographs (Date):	
[] Advanced Identification Wetland maps:	
[X] Site visit/determination eonducted on: November 1	8, 2004
[ ] Applicable/supporting case law:	
Other information (please specify):	
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Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delinearion Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2003-01356 PROJECT LOCATION INFORMATION: State: New York Dutchess County: Center coordinates of site (latitude/longitude): lat:41-40-4.0080 lon:73-48-12.9960 Approximate size of area (parcel) reviewed, including uplands: 191.16 acres. Name of nearest waterway: Unnamed Tributary to Sprout Creek HUDSON RIVER - YONKERS TO POUGHKEEPSIE Name of watershed: JURISDICTIONAL DETERMINATION Desktop determination Date: Completed: [] Site visit(s) Date(s): November 17, 2004 [X] Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 53.66 acres. [X] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [X] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign eommerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): [ ] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include unnamed tributaries to Sprout Creek, which flows to Fishkill Creek, which flows to the Hudson River, which is navigable.

[X] (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

[] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
[] (iii) which are or could be used for industrial purposes by industries in interstate commerce.

[] (4) Impoundments of waters otherwise defined as waters of the US. [X] (5) The presence of a tributary to a water identified in (1) - (4) above.

[ ] (6) The presence of territorial seas.

Lateral Extent of Jurisdiction: (Reference: 33 CF)	R parts 328 and 329)
[X] Ordinary High Water Mark indicated by:	[ ] High Tide Line indicated by:
[X] clear, natural line impressed on the bank	[] oil or scum line along shore objects
[X] the presence of litter and debris	[] fine shell or debris deposits (foreshore)
[X] changes in the character of soil	[] physical markings/characteristics
[X] destruction of terrestrial vegetation	[] tidal gages
[] shelving	[ ] other:
[ ] other:	
[] Mean High Water Mark indicated by:	
	ngs; [] vegetation lines/changes in vegetation types.
[X] Wetland boundaries, as shown on the attached w	etland delineation map and/or in a delineation report prepared by:
Basis For Not Asserting Jurisdiction:	
[] The reviewed area consists entirely of uplands.	
[ ] Unable to confirm the presence of waters in 33 C	FR part 328(a)(1, 2, or 4-7).
[] Headquarters declined to approve jurisdiction on t	the basis of 33 CFR part 328.3(a)(3).
[X] The Corps has made a case-specifie determination	in that the following waters present on the site are not Waters of
the United States:	·
[ ] Waste treatment systems, including treatment [	ponds or lagoons, pursuant to 33 CFR part 328.3.
[ ] Artificially irrigated areas, which would revert	to upland if the irrigation ceased.
[ ] Artificial lakes and ponds created by excavatir	
	or such purposes as stock watering, irrigation, settling basins, or
rice growing.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
[ ] Artificial reflecting or swimming pools or other	er small ornamental bodies of water created
by excavating and/or diking dry land to retain	
	cidental to construction activity and pits excavated in dry land for
	nless and until the construction or excavation operation is
	ets the definition of waters of the United States found at 33 CFR
[X] Isolated, intrastate wetland with no nexus to it	nterstate commerce.
	e Natural Resources Conservation Service. Explain rationale:
[] Non-tidal drainage or irrigation ditches excava	
[ ] Other (explain):	ted on dry faild. Displain failonais.
[ ] Other (explain).	
DATA REVIEWED FOR JURISDICTIONAL DETER	RMINATION (mark all that apply):
[X] Maps, plans, plots or plat submitted by or on beh	
[X] Data sheets prepared/submitted by or on behalf o	
[ ] This office concurs with the delineation report.	
[] This office does not concur with the delineation	
Data sheets prepared by the Corps.	, prepared by (company).
[ ] Corps' navigable waters' studies:	
[ ] U.S. Geological Survey Hydrologic Atlas:	
[X] U.S. Geological Survey 7.5 Minute Topographic	mana, Diagram Valley, NV
[] U.S. Geological Survey 7.5 Minute Historic quadr	<del>-</del>
[] U.S. Geological Survey 15 Minute Historic quadra	
[X] USDA Natural Resources Conservation Service S	
[X] National wetlands inventory maps: Pleasant Valle	
[X] State/Local wetland inventory maps: Pleasant Val	lley, NY
[ ] FEMA/FIRM maps (Map Name & Date):	
[ ] 100-year Floodplain Elevation is: (NGVD)	
[] Aerial Photographs (Name & Date):	
[X] Other photographs (Date):	
[] Advanced Identification Wetland maps:	
[X] Site visit/determination conducted on: November	17, 2004
[] Applicable/supporting case law:	
[] Other information (please specify):	

Wetlands are identified and delincated using the methods and eriteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

NEW YORK DISTRICT (CENAN) DISTRICT OFFICE: FILE NUMBER: 2004-00757 PROJECT LOCATION INFORMATION: State: New York County: Orange Center coordinates of site (latitude/longitude): lat:41-27-11.8800 lon:74-30-21.9240 Approximate size of area (parcel) reviewed, including uplands: 9.22 acres. Name of nearest waterway: Unnamed Tributary to the Little Shawangunk Kill Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE JURISDICTIONAL DETERMINATION Completed: Desktop determination [] Site visit(s) [X]Date(s): September 15, 2004 Jurisdictional Determination (JD): [ ] Preliminary JD - Based on available information, [ ] there appear to be (or) [ ] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Cheek all that apply: [] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: [X] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 2.21 acres. [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [ ] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign eommeree. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [ ] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>. [ ] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply): (i) which are or could be used by interstate or foreign travelers for recreational or other purposes. [ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(I) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetland includes intermittent stream which is an unnamed tributary to the Little Shawangunk Kill, which flows to the Shawangunk Kill, which flows to the Wallkill River, which flows to Rondout Creek, which flows to the Hudson River, which is navigable.

[X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

[ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.

[] (4) Impoundments of waters otherwise defined as waters of the US. [X] (5) The presence of a tributary to a water identified in (1) - (4) above.

[ ] (6) The presence of territorial seas.

Lateral Extent of Jurisdiction: (Reference: 33 CFR   [X] Ordinary High Water Mark indicated by:  [X] clear, natural line impressed on the bank  [X] the presence of litter and debris  [] changes in the character of soil  [] destruction of terrestrial vegetation  [] shelving  [] other:	parts 328 and 329) [] High Tide Line indicated by: [] oil or seum line along shore objects [] fine shell or debris deposits (foreshore) [] physical markings/characteristics [] tidal gages [] other:		
[] Mean High Water Mark indicated by: [] survey to available datum; [] physical marking:	s; [] vegetation lines/ehanges in vegetation types.		
[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by			
[] Headquarters declined to approve jurisdiction on the [] The Corps has made a case-specific determination the United States: [] Waste treatment systems, including treatment por [] Artificially irrigated areas, which would revert to [] Artificial lakes and ponds created by excavating retain water and which are used exclusively for since growing. [] Artificial reflecting or swimming pools or other by excavating and/or diking dry land to retain water jurisdiction of the purpose of obtaining fill, sand, or gravel unlead abandoned and the resulting body of water meets 328.3(a). [] Isolated, intrastate wetland with no nexus to inter [] Prior converted cropland, as determined by the N	r Not Asserting Jurisdiction: eviewed area consists entirely of uplands. le to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7). quarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3). Corps has made a case-specific determination that the following waters present on the site are not Waters of nited States: aste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3. rifficially irrigated areas, which would revert to upland if the irrigation eeased. rifficial lakes and ponds created by excavating and/or diking dry land to collect and tain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or regrowing. rifficial reflecting or swimming pools or other small ornamental bodies of water created excavating and/or diking dry land to retain water for primarily aesthetic reasons. ater-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for and purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is andoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 8.3(a).  Polated, intrastate wetland with no nexus to interstate commerce. Interconverted cropland, as determined by the Natural Resources Conservation Service. Explain rationale: Interconverted cropland, as determined by the Natural Resources Conservation Service.		
[X] Maps, plans, plots or plat submitted by or on behalf [X] Data sheets prepared/submitted by or on behalf of t [ ] This office concurs with the delineation report, d [ ] This office does not concur with the delineation report, d [ ] This office does not concur with the delineation report, d [ ] Data sheets prepared by the Corps. [ ] Corps' navigable waters' studies: [ ] U.S. Geological Survey Hydrologic Atlas: [X] U.S. Geological Survey 7.5 Minute Topographic material [ ] U.S. Geological Survey 7.5 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 15 Minute Historic quadrant [ ] U.S. Geological Survey 17.5 Minute Historic quadrant [ ] U.S. Geological Survey 17.5 Minute Historic quadrant [ ] U.S. Geological Survey 17.5 Minute Historic quadrant [ ] U.S. Geological Surv	f of the applicant. he applicant. ated , prepared by (company): report, dated , prepared by (company):  aps: Otisville, NY gles: gles: l Survey: Orange County, NY		

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers DISTRICT OFFICE: NEW YORK DISTRICT (CENAN) FILE NUMBER: 2005-00102 PROJECT LOCATION INFORMATION: New Jersey State: County: Hudson Center coordinates of site (latitude/longitude): lat:40-39-0.0000 lon:74-6-0.0000 Approximate size of area (parcel) reviewed, including uplands: Berth Area 250' by 50' Name of nearest waterway: Kill Van Kull Name of watershed: KILL VAN KULL JURISDICTIONAL DETERMINATION Desktop determination Date: 28 Jan 2005 Completed: X Site visit(s) Date(s): [ ] Jurisdictional Determination (JD): [X] Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331). [ ] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply: [ ] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: . [ ] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidanee) within the reviewed area. Approximate size of jurisdictional area: [ ] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction. BASIS OF JURISDICTIONAL DETERMINATION: A. Waters defined under 33 CFR part 329 as "navigable waters of the United States": [X] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States": [X] (I) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. [ ] (2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats,
  - sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate eommerce including any such waters (eheck all that apply):
    - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
    - [] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [ ] (4) Impoundments of waters otherwise defined as waters of the US.
- [ ] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [] (7) The presence of wetlands adjacent<sup>2</sup> to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes ehecked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Applicant proposes to dredge with upland disposal approximately 550 cubic yards of sediment from an existing 250' by 50' borth area to restore the depth to 40 feet below Mean Low Water.

Lateral Extent of Jurisdiction: (Reference: 33 CFR  [] Ordinary High Water Mark indicated by: [] elear, natural line impressed on the bank [] the presence of litter and debris [] changes in the character of soil [] destruction of terrestrial vegetation [] shelving [] other:	[X] High Tide Line indicated by:  [] oil or scum line along shore objects  [] fine shell or debris deposits (foreshore)  [] physical markings/characteristics  [X] tidal gages  [] other:
[X] Mean High Water Mark indicated by: [X] survey to available datum; [] physical marking	ngs; [] vegetation lines/changes in vegetation types.
[] Wetland boundaries, as shown on the attached wet	tland delineation map and/or in a delineation report prepared by:
the United States:  [ ] Waste treatment systems, including treatment p [ ] Artificially irrigated areas, which would revert [ ] Artificial lakes and ponds created by excavating retain water and which are used exclusively for rice growing. [ ] Artificial reflecting or swimming pools or other by excavating and/or diking dry land to retain v [ ] Water-filled depressions created in dry land ince the purpose of obtaining fill, sand, or gravel un abandoned and the resulting body of water mee 328.3(a). [ ] Isolated, intrastate wetland with no nexus to interpretations.	the basis of 33 CFR part 328.3(a)(3). That the following waters present on the site are not Waters of bonds or lagoons, pursuant to 33 CFR part 328.3. To upland if the irrigation ceased. It is an adversarial grand/or diking dry land to eollect and resuch purposes as stock watering, irrigation, settling basins, or resmall ornamental bodies of water created water for primarily aesthetic reasons. Evidental to construction activity and pits excavated in dry land for alless and until the construction or excavation operation is lets the definition of waters of the United States found at 33 CFR terstate commerce.  Natural Resources Conservation Service. Explain rationalc:
REVIEWED FOR JURISDICTIONAL DETERMINA  [X] Maps, plans, plots or plat submitted by or on behalf of  [] Data sheets prepared/submitted by or on behalf of  [] This office concurs with the delineation report,  [] This office does not concur with the delineation  [] Data sheets prepared by the Corps.  [] Corps' navigable waters' studies:  [] U.S. Geological Survey Hydrologic Atlas:  [] U.S. Geological Survey 7.5 Minute Topographic m  [] U.S. Geological Survey 15 Minute Historic quadra  [] U.S. Geological Survey 15 Minute Historic quadra  [] U.S. Anatural Resources Conservation Service Soi  [] National wetlands inventory maps:  [] State/Local wetland inventory maps:  [] FEMA/FIRM maps (Map Name & Date):  [] 100-year Floodplain Elevation is: (NGVD)  [] Aerial Photographs (Name & Date):  [] Other photographs (Date):  [] Advanced Identification Wetland maps:  [] Site visit/determination eonducted on:  [] Applicable/supporting case law:  [] Other information (please specify):	alf of the applicant. the applicant. dated , prepared by (company): n report, dated , prepared by (company): naps: angles: ngles:

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<sup>&</sup>lt;sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, bydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

U.S. Army Corps of Engineers

**DISTRICT OFFICE:** NEW YORK DISTRICT (CENAN)

FILE NUMBER: 2005-00196

#### PROJECT LOCATION INFORMATION:

State: New York County: Clinton

Center coordinates of site (latitude/longitude): lat:44-37-50.4840 lon:73-27-26.1000

Approximate size of area (parcel) reviewed, including uplands: 7.56 acres.

Name of nearest waterway: Salmon River
Name of watershed: LAKE CHAMPLAIN

# JURISDICTIONAL DETERMINATION

Completed: Desktop determination [ ] Date:

Site visit(s) [X] Date: May 11, 2005

# Jurisdictional Determination (JD):

[X	Preliminary JD - Based on available information, [X] there appear to be (or) [] there appear to be no "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
[]	Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:
	[] There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[ ] There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
	[] There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area. [] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

## BASIS OF JURISDICTIONAL DETERMINATION:

### A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

# B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- [] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or forcign commerce, including all waters which are subject to the ebb and flow of the tide.
- [] (2) The presence of interstate waters including interstate wetlands.
- [] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
  - [] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
  - [ ] (ii) from which fish or shellfish are or eould be taken and sold in interstate or foreign eommerce.
  - [] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- [] (4) Impoundments of waters otherwise defined as waters of the US.
- [X] (5) The presence of a tributary to a water identified in (1) (4) above.
- [] (6) The presence of territorial seas.
- [X] (7) The presence of wetlands adjacent to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: The site contains wetlands adjacent to the Salmon River, a tributary to Lake Champlain, which is navigable.

	Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)  [] Ordinary High Water Mark indicated by:  [] clear, natural line impressed on the bank  [] the presence of litter and debris  [] changes in the character of soil  [] destruction of terrestrial vegetation  [] shelving  [] other:  [] ordinary High Water Mark indicated by:  [] High Tide Line indicated by:  [] oil or scum line along shore objects  [] physical markings/characteristics  [] physical markings/characteristics  [] tidal gages  [] other:
	[] Mean High Water Mark indicated by: [] survey to available datum; [] physical markings; [] vegetation lines/changes in vegetation types.
	[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by
	Basis For Not Asserting Jurisdiction:  [] The reviewed area consists entirely of uplands.  [] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).  [] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).  [] The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:  [] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.  [] Artificially irrigated areas, which would revert to upland if the irrigation ceased.  [] Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.  [] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily acsthetic reasons.  [] Water-filled depressions created in dry land incidental to construction activity and pits exeavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or exeavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).  [] Isolated, intrastate wetland with no nexus to interstate commerce.  [] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
	[ ] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: [ ] Other (explain):
R	EEVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):  [X] Maps, plans, plots or plat submitted by or on behalf of the applicant.  [X] Data sheets prepared/submitted by or on behalf of the applicant.  [X] This office concurs with the delineation report, dated May 23, 2005, prepared by C & S Engineers  [] This office does not concur with the delineation report, dated , prepared by (company):  [] Data sheets prepared by the Corps.  [] Corps' navigable waters' studies:  [] U.S. Geological Survey Hydrologic Atlas:  [X] U.S. Geological Survey 7.5 Minute Topographic maps:  [] U.S. Geological Survey 7.5 Minute Historic quadrangles:  [] U.S. Geological Survey 15 Minute Historic quadrangles:  [X] USDA Natural Resources Conservation Service Soil Survey:  [] National wetlands inventory maps:  [] State/Local wetland inventory maps:  [] FEMA/FIRM maps (Map Name & Date):  [] 100-year Floodplain Elevation is: (NGVD)  [X] Aerial Photographs (Name & Date):  [] Other photographs (Date):  [] Advanced Identification Wetland maps:  [] Site visit/determination conducted on:  [] Advanced Identification wetland maps:
	[ ] Applicable/supporting case law: [ ] Other information (please specify):

DATA

Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>&</sup>lt;sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.